

# California Board of Chiropractic Examiners Fires Staff

BOARD COMES UNDER SCRUTINY FROM STATE LEGISLATURE

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In the latest development in an ongoing cycle of upheaval within the California Board of Chiropractic Examiners, the California Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee held a joint hearing on March 28, 2007, to address persistent internal battles within the board. In that hearing, the various issues surrounding the board over the past few years were outlined. The hearing was led by Assemblyman Mike Eng (D-Monterey Park) and Sen. Mark Ridley (D-Los Angeles), chair of the Senate Business, Professions and Economic Development Committee.

The California Board of Chiropractic Examiners was created in 1922 by an act of the people of California to regulate the licensure and practice of chiropractic in California. Recently, the board has experienced considerable internal turmoil that can be traced to, among other issues, the termination and reassignment of certain employees and conflicts of interest.

## Executive Director and Board Council Terminated

Perhaps the most contentious of these issues involved an open meeting on March 1, 2007, in which the board suddenly declared a closed meeting and voted to terminate Executive Officer Catherine Hayes without the requisite 24-hour notice or opportunity for Hayes to have a public hearing. Additionally, the issue of Hayes' employment was not listed on the meeting agenda.

The board also made the surprise decision to deny Deputy Attorney General, Ms. Jana Tuton, who served as counsel to the board, from attending the closed meeting. At this point, the meeting became so heated that five California Highway Patrol officers were dispatched to keep order.

At that same meeting, Board Chair Richard Tyler, DC, announced that the board had elected him as interim executive officer, a position he is not allowed to hold as a member of the board. Dr. Tyler, a Gov. Schwarzenegger appointee to the board, was one of the first friends the governor made when he originally came to California in 1968.

Hayes' abrupt firing set off a media firestorm, which resulted in Gov. Schwarzenegger forcing Tyler to step aside as interim executive officer. Board members serve as judges in disciplinary matters, while the executive director pursues cases. A member of a state regulatory board cannot simultaneously serve as executive director, due to California Gov. Code Section 1099 (Chapter 254), which prohibits a public officer from simultaneously holding another office that could be incompatible.<sup>2</sup>

On March 23, the board reconvened to allow Hayes a public hearing before re-firing her. At that meeting, Tyler issued an apology for the board's initial dismissal of Hayes on March 1. He stated, "A careful consideration of the events of the March 1<sup>st</sup> meeting of the California Board of Chiropractic Examiners has revealed gross errors in judgment. As the newly elected chair, it was,

and is, my responsibility to ensure that the proper procedures and correct legal protocols are always observed. Regrettably and painfully, I failed to do so."<sup>3</sup>

#### Conflict of Interest

Another area of contention regarding the board revolved around Board Consultant Maggie Craw, DC. As board consultant, Dr. Craw reviewed complaints and patient records to determine if an investigation should be opened. In addition to her role on the board, she also served as a utilization reviewer for an insurance company.

It is her position with the insurance company that is at the heart of the conflict regarding her board position. Numerous conflict-of-interest charges were brought against Dr. Craw, alleging that she applied regulations in a biased manner, denied reimbursement for chiropractic care, and utilized her position with the board to enhance her position with a private insurance company.

On Aug. 10, 2006, at an open meeting, numerous chiropractors came forward to testify against Dr. Craw. As a result, Hayes was directed to fire her. During a March 23, 2007 hearing, Hayes claimed that this directive was "improper and illegal."<sup>4</sup> Since then, Dr. Craw has been reassigned elsewhere.

#### Conflicts, Politics or Public Protection?

In light of all of the back-and-forth accusations, Assemblyman Eng told the *Sacramento Bee*, "The Board's primary duty is to protect patients and consumers, and to regulate the profession they oversee. The actions of this particular board call into question whether they fully understand their mission statement."<sup>1</sup>

But the actions of the legislature appear to coincide closely with the barrage of articles that began appearing almost nonstop in the *Sacramento Bee* after the March 1 meeting. While supposedly reporting on the board's activities, the Bee went out of its way to implicate that the governor was somehow responsible. It's as if the legislature took its cue from the media, recognizing that the actions of the chiropractic board might represent a golden opportunity to embarrass Gov. Schwarzenegger.

Those close to the situation suggest this is not an issue of protecting patients and consumers. Their contention is that the board's disciplinary authority had been compromised by Dr. Craw's "blatant conflicts of interest," and the unwillingness of the executive director and the board deputy attorney general to support the board in its efforts to identify and rectify those conflicts. They contend that while the board may have violated procedure, its actions were necessary for the appropriate exercise of justice over the chiropractic profession.

#### References

1. Yamamura K. "Chiropractic Board to Face Legislative Scrutiny." *Sacramento Bee*, March 14, 2007, p. A1.
2. Senate Business, Professions and Economic Development Committee and Assembly Business and Professions Committee. Oversight Agenda: Review of the State Board of Chiropractors. March 28, 2007. Available online at: <http://enigo.com/shortlink?mb>.
3. Yamamura K. "Chiropractic Panel Leader Apologizes." *Sacramento Bee*, March 24, 2007, p. A1.
4. Nicholas P. "Board Chief Is Fired After Accusations." *Los Angeles Times*, March 24, 2007.

